

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA,
by D. MICHAEL FISHER,
Attorney General,

Plaintiff

v.

JASH INTERNATIONAL, INC.,

Defendant

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No. 406 M.D. 2001

COMPLAINT

PRELIMINARY STATEMENT

1. This is an action to enforce the Tobacco Settlement Agreement Act of 2000, 35 P. S. ' 5671 et seq.

2. The Tobacco Settlement Agreement Act provides, in pertinent part, that:

Any tobacco product manufacturer that sells cigarettes to consumers within this Commonwealth after the effective date of this act shall do one of the following:

(1) Become a participating manufacturer as defined in the Master Settlement Agreement and generally perform its financial obligations under the Master Settlement Agreement.

(2) Place into a qualified escrow fund by April 15 of the year following the year in question the following amounts, as the amounts are adjusted for inflation:

(i) 2000 - \$.0104712 per unit sold after the effective date of this act.

(35 P. S. ' 5674(a)). The Defendant is a tobacco product manufacturer that has failed to do either of these things.

3. The Act provides that the Commonwealth shall enforce its provisions.

Failure to comply can result in civil penalties, attorney fees and costs. (35 P.S.' 5674).

PARTIES

4. Plaintiff is the Commonwealth of Pennsylvania, by and through its Attorney General, D. Michael Fisher. It is authorized to bring this action pursuant to 35 P. S. ' 5674(c).

5. Defendant Jash International, Inc. is an Illinois corporation with a principal place of business at 633 Enterprise Avenue, Dekalb, IL 60015.

JURISDICTION

6. The Court has jurisdiction over original actions brought by the Commonwealth government pursuant to 42 Pa. C. S. ' 761.

FACTUAL ALLEGATIONS

7. Jash International, Inc. manufactures cigarettes under the brand name ADouble Diamond.®

8. Double Diamond brand cigarettes are sold in Pennsylvania.

9. Jash International, Inc. is a tobacco product manufacturer® as defined by the Tobacco Settlement Agreement Act. (35 P. S. ' 5673).

10. In the year 2000, Jash International, Inc. manufactured, distributed, and/or sold cigarettes which were purchased by consumers in the Commonwealth of Pennsylvania directly or indirectly through distributors or retailers.

11. Jash International, Inc. has not become a participating manufacturer under the Master Settlement Agreement.

12. Jash International, Inc. has not established or funded an escrow account.

13. During the period between June 22, 2000, when the Act became effective, and December 31, 2000, 1,182,000 cigarettes manufactured by Jash International, Inc. were sold within the Commonwealth.

14. One million, one hundred eighty two thousand (1,182,000) units, multiplied by the statutory rate per unit as adjusted for inflation, \$.0111506, totals \$13,180.01, which Jash

International, Inc. was required to put into escrow by April 15, 2001 for the benefit of Pennsylvania for sales in the year 2000.

COUNT I

VIOLATION OF TOBACCO SETTLEMENT AGREEMENT ACT

15. Paragraphs 1 through 14 are incorporated herein by reference.

16. The failure of Defendant Jash International, Inc. to join the Master Settlement Agreement or establish an escrow account constitutes a violation of 35 P. S. ' 5674.

WHEREFORE, Plaintiff prays that:

- a. the Court find and declare that Jash International, Inc. has violated the Pennsylvania Tobacco Settlement Agreement Act by failing to become a participating manufacturer or establishing a qualified escrow account in the amount of \$13,180.01 for the benefit of Pennsylvania for cigarettes sold in 2000;
- b. the Court enter an order pursuant to 35 P. S. ' 5674(c)(1), requiring Jash International, Inc. to come into compliance with the Act within fifteen (15) days;
- c. Jash International, Inc. be assessed a civil penalty pursuant to 35 P. S. ' 5674(c)(1) in the amount of \$13,180.01;
- d. the Commonwealth be awarded costs and attorney fees pursuant to 35 P. S. ' 5674(d); and
- e. the Court grant such other and further relief as it believes just and equitable.

COUNT II

**KNOWING VIOLATION OF
TOBACCO SETTLEMENT AGREEMENT ACT**

17. Paragraphs 1 through 16 are incorporated herein by reference.
18. Jash International, Inc. was notified in writing of its obligations under the Tobacco Settlement Agreement Act by letter dated March 20, 2001 from the Office of Attorney General. (A copy of the letter is attached hereto as Exhibit AA@)
19. Jash International, Inc. was again notified of these obligations in the Commonwealth's demand letter, dated May 2, 2001. (A copy of the letter is attached hereto as Exhibit AB@)
20. Jash International, Inc. has knowingly violated Section 5674 of the Act by failing to become a participating manufacturer or placing \$13,180.01 into a qualified escrow fund.

WHEREFORE, Plaintiff prays that:

- a. the Court find and declare that Jash International, Inc. has knowingly violated the Pennsylvania Tobacco Settlement Agreement Act by failing to become a participating manufacturer or establishing a qualified escrow account in the amount of \$13,180.01 for the benefit of Pennsylvania for cigarettes sold in 2000;
- b. the Court enter an order pursuant to 35 P. S. ' 5674(c)(1) requiring Jash International, Inc. to come into compliance with the Act within fifteen (15) days;
- c. Jash International, Inc. be assessed a civil penalty pursuant to 35 P. S. ' 5674(c)(2) in the amount of \$39,540.03;

- d. the Commonwealth be awarded costs and attorney fees pursuant to 35 P. S. ' 5674(d); and
- e. the Court grant such other and further relief as it believes just and equitable.

Respectfully submitted,

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By:

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